

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: SOLOMON1R

In re Application of:)	Conf. No.: 3910
)	
Beka SOLOMON)	Art Unit: 1649
)	
Appln. No.: 09/441,140)	Examiner: S. L. Turner
)	
Filed: November 16, 1999)	Washington, D.C.
)	
For: PREVENTION OF PROTEIN)	
AGGREGATION)	
)	

DECLARATION OF KENNETH I. KOHN

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, Mail Stop Amendments
401 Dulany Street
Alexandria, VA 22314

Sir:

I, the undersigned Kenneth I. Kohn, hereby declare
and state as follows.

I am a patent attorney, registered to practice
before the U.S. Patent and Trademark Office. Throughout the
year 1994 (and earlier) up until about August 1995, I was
associated with the law firm Reising, Ethington, Barnard,
Perry & Milton and Learman & McCulloch, Columbia Center, 201
W. Big Beaver, Suite 400, Troy, Michigan 48089.

In or about August 1995, I formed the firm of Kohn and Associates, 30500 Northwestern Hwy, Suite 410, Farmington Hills, Michigan 48334.

In 1994, one of my clients was Ramot-University Authority for Applied Research & Industrial Development Ltd. of Tel Aviv, Israel (hereinafter Ramot). Ramot was also sometimes alternatively referred to as Ramot of Tel Aviv University. This corporation is the technology transfer arm of Tel Aviv University. My principle correspondent at Ramot was Mr. Hananel Kvatinsky, who was Assistant R&D Manager, Patents and Technology Transfer, at Ramot at the time.

During 1994, my firm was engaged to write a patent application with respect to an invention of Prof. Beka Solomon at Tel Aviv University. My reference number for this task was P-306. It is my understanding that Ramot's reference number for this application was 1180. This application was completed and filed on December 16, 1994, as application no. 08/358,786. It eventually issued as patent no. 5,688,651. On information and belief, the above-identified application in which this declaration is to be filed, is a reissue application of that patent.

When we moved from the Reising firm to Kohn and Associates in 1995, this file came with us and remained under our control until 2001, after the issuance of patent

5,688,651. In 2001 my power of attorney in that issued patent was revoked in favor of attorneys at Browdy and Neimark, PLLC.

Referring to the contents of the file, most of the work that was conducted in the preparation of the application in the P-306 matter was done by Ilene Montgomery who was an attorney at the Reising firm and came with us when we founded Kohn and Associates in 1995. Ms. Montgomery has since deceased.

For reasons unknown to me, the file does not include all of the pre-filing correspondence, drafts, etc. However, a number of documents relating to the period prior to the date of filing of the patent application on December 16, 1994, were found upon my inspection of my file with respect to this matter and are discussed below.

Submitted herewith as Exhibit A is a copy of an email dated October 3, 1994, from Jackie Walton to Hananel Kvatincky, which states that a draft patent application is attached for review and comment by the inventor. Ms. Jackie Walton was my administrative assistant at the time.

Submitted herewith as Exhibit B is a letter to me from Dr. Beka Solomon, who was the inventor of the invention set forth in this application, dated November 2, 1994. This is a copy of a letter on original Tel Aviv University

letterhead from our file without any indication thereon when it was received.

Submitted herewith as Exhibit C is a note with certain comments from Beka Solomon and certain comments from Hananel Kvatincky. It is undated.

Submitted herewith as Exhibit D is an email dated November 11, 1994, from me to Hananel Kvatincky, stating that the papers that I had received while I was in Israel did not relate to the Solomon case and stating that I still needed to receive the materials that I requested from Dr. Solomon.

Submitted herewith as Exhibit E is an email dated November 15, 1994, which appears to be a duplicate of the email dated November 11, 1994.

Submitted herewith as Exhibit F is an email dated November 14, 1994, from Hananel Kvatincky to Jackie Walton, stating that Dr. Solomon's material had been sent by courier. The email indicates that it is from Ken Kohn and Hananel Kvatincky, because it was initially sent to me and I forwarded it to Jackie Walton.

Submitted herewith as Exhibit G is a copy of a fax message to me from Hananel Kvatincky dated November 16, 1994, and bearing a fax machine notation at the top confirming the date of November 16, 1994. This fax message purports to

enclose an article, which Dr. Solomon wanted sent to *Nature* and asking my opinion about it.

Submitted herewith as Exhibit H is an email dated November 17, 1994, from Hananel Kvatincky and forwarded by me to Jackie Walton asking whether I had received the material sent to me by DHL.

Submitted herewith as Exhibit I is a DHL shipment airbill showing that a package was sent from the Reising firm to Ramot. The shipper's authorization and signature at the bottom indicates that it was sent on December 16, 1994.

All of Exhibits A-I are copies of exhibits from a file maintained in the ordinary course of business in my firm and I can attest that they are true and accurate copies of documents from this file.

Submitted herewith as Exhibits J-N and P-Z are documents that, on information and belief, were retrieved from the files at Ramot. On information and belief, Exhibit O was retrieved from the file at Browdy and Neimark, PLLC. I understand that separate declarations are being filed attesting to the authenticity of these documents. I have reviewed them for the purpose of refreshing my memory about what transpired prior to filing of the Solomon application.

Exhibit J is the same as my Exhibit A except that it also shows that the confirmation copy was received at Ramot on

October 9, 1994. I have been informed that Exhibit K was in Ramot's file as an attachment to the letter of Exhibit Z, which is the same as my Exhibit B. Thus, Exhibit K appears to be the draft sent with our email of Exhibit J with the interlineated hand-written comments of Dr. Solomon. It is dated October 4, 1994, on every page of text. I presume that this date printed out when the electronic text was printed by Dr. Solomon or Mr. Kvatincky in Israel after receipt of our email of Exhibit J.

Exhibit L refreshes my memory that I was in Israel in early November of 1994. The statement therein that I had received Dr. Solomon's comments was corrected by the email of Exhibit D. Exhibit M is the same as Exhibit D except it comes from the Ramot files and shows a receipt date of November 13, 1994, stamped thereon.

Exhibit N is the same as my Exhibit G. Exhibit O is apparently the *Nature* manuscript referred to in Exhibits G and N.

Exhibit P is dated December 2, 1994, and it appears therefrom that I had sent a final draft of the application on that Friday for expected receipt in Israel on the following Sunday or Monday. Sunday is a workday in Israel. Indeed, Exhibit P is marked as having been received by Ramot on December 4, 1994. Exhibit Q evidences that my administrative

assistant, Jackie Walton was simultaneously taking care of the filing documents, i.e., formalities. The documents were emailed to Ramot by Jackie Walton on December 5, 1994, as is evidenced by Exhibit R.

Exhibit S appears to be a letter to me from Mr. Kvatincky enclosing a letter and remarks and changes to the application from Dr. Solomon, requested references and the power of attorney, assignment and small business forms as executed. Exhibits T, U and V appear to be the executed forms returned with that fax.

The email of Exhibit W, dated December 14, 1994, confirms that much work was done on the application after receipt of the additional material from Dr. Solomon. Similarly, Exhibit X, dated December 15, 1994, also evidences that additional revisions were made.

Exhibit Y, dated December 15, 1994, contains the same information as in Exhibit C. Accordingly, it is now apparent to me that Exhibit C was responsive to my email of Exhibit X.

The record shows that the Solomon application was filed on December 16, 1994.

In summary, we received Dr. Solomon's comments on the first draft within two or three days of Monday, November 14, 1994, when it was sent to me by DHL (Exhibit F).

Furthermore, on Wednesday, November 16, 1994, we received Dr. Solomon's *Nature* manuscript to review, which was directly related to the subject matter of the application (Exhibits G, N and O). It is apparent that our office worked on this application between those dates and December 2, 1994, when another draft was sent to Ramot (Exhibit P). We also worked on preparing the formal papers (Exhibits Q and R).

On December 7, 1994, we received by fax additional remarks and changes from Dr. Solomon (Exhibit S). We subsequently worked on further revisions of the draft application, as is evidenced by Exhibits W and X, until the application was filed on December 16, 1994.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

March 15, 2007
Date

/Kenneth I. Kohn/
Kenneth I. Kohn